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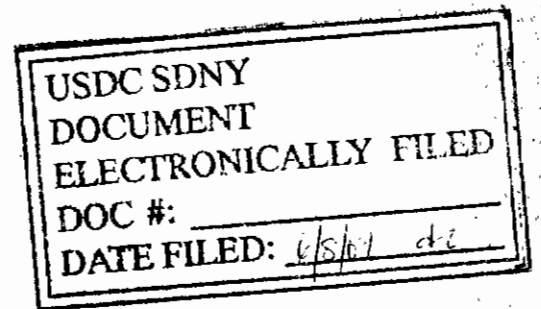
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June 6, 2007

BY FACSIMILE

Honorable Barbara S. Jones
United States District Judge
United State Courthouse
Southern District of New York
500 Pearl Street, Rm. 620
New York, New York 10007



Re: Laurie Kellogg v. NYS Dept. of Correctional Services, et al. /07 Cv. 2804 (BSJ)(GWG)

Dear Judge Jones:

I represent defendants Armstrong, Ball, Barclay, Duncan, Goldstein, Fisher (substituted for defendant Goord), Nuttal (substituted for defendant Headley), LeClaire, Lord, Raymond (substituted for defendant Masterson), McElroy, Notaro, Perez, Roger, Schneider, Smith and Wright. Defendants Jackson, Murray, Robinson and Williams have not yet been served with the complaint and have not yet requested representation from this Office pursuant to New York State Public Officers Law § 17. Although defendant Bernardi, who has been sued in his official capacity, has been served, I have informed plaintiff's counsel that Mr. Bernardi retired from the New York State Department of Correctional Services more than three years ago and his position has been eliminated.

With the consent of plaintiff's counsel, we respectfully request that the defendants' time to move or answer with respect to the complaint be extended from June 8, 2007 to August 8, 2007. At this time, defendants expect to file a motion to dismiss with respect to several of the defendants and claims raised in the complaint. An extension of time is necessary due to the voluminous nature of the complaint and the number of defendants named, in order to obtain the necessary files and documents, investigate the facts, research applicable law and draft responsive papers. This is defendants' first request for an extension of time.

Honorable Barbara S. Jones

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Kellogg v. NYS Dept. of Correctional Services, et al. / 07 Civ. 2804 (BSJ)(GWG)

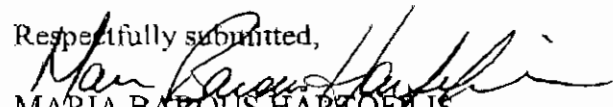
Defendants anticipate filing a motion to dismiss on several grounds, including, but not limited to, statute of limitations and the 11th Amendment. It is further anticipated that defendants may have a viable motion to dismiss based on plaintiff's failure to exhaust her administrative remedies. To help resolve this issue as early in the proceedings as possible, the parties have agreed to engage in discovery solely on the issue of exhaustion, prior to defendants filing responsive papers. The parties have also agreed to a stay of all other discovery in this matter, pending a decision on defendants' motion to dismiss.

The additional time being requested may also allow for the remaining four defendants to be served and request representation so that a joint motion or answer may possibly be filed on their behalf. However, pursuant to New York State Public Officers Law § 17, prior to undertaking their representation, we must conduct an investigation and review of the facts and circumstances of the case in order to determine whether representation by this Office would be appropriate. Due to the allegations in this action, these representational determinations under § 17 require evaluation of all facts and circumstances relevant to each requesting defendant.

We make this initial application to the Court in order to set a reasonable estimate of the time needed for the required factual investigation and representational determinations to be made under the Public Officers Law. In the event that we are unable to complete the process in sufficient time for the defendants to respond to the complaint by August 8, 2007, we will promptly contact plaintiff's counsel and the Court.

Wherefore, it is respectfully requested that the time for defendants to move or answer with respect to the complaint be extended to August 8, 2007 and that discovery be stayed, with the exception of discovery solely on the issue of exhaustion, pending a decision on defendants' anticipated motion to dismiss.

Respectfully submitted,


MARIA BAROUS HARTOFILIS
Assistant Attorney General

cc: Anthony M. Giordano, P.C.
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By facsimile

Application GRANTED

SO ORDERED
Dated:


BARBARA S. JONES
U.S.D.J.

June 7, 2007